

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA _ CENTRAL DIVISION

UNITED STATES,
Plaintiff,

vs.

JOCELYN CHASING HAWK,
Defendant.

Case No. 3:19CR30003-1

COMES NOW, Jocelyn Chasking Hawk, to request a reduction in sentence pursuant to 18 U.S.C. §3582 and believes the following circumstances demonstrate an extraordinary and compelling need:

1. Jocelyn's daughter, Ladonna, is dying of cancer and has a bleak prognosis
2. Jocelyn's 17 year old daughter, Shanyn, attempted suicide
3. Virtually no programming exists at FCI Waseca due to COVID-19
4. Jocelyn's health is such that she is at high risk to contract and suffer long term health complications from COVI-19
5. The First Step Act appears to apply to Jocelyn and she is eligible for the credits in spite of the BOP's determination otherwise

Based upon the above, Jocelyn beleives her release should occur immediately. She is fully prepared to follow all rules and recommendations from the strict requirements of her probation.

In support of the above, Jocelyn has attached the following documentation in support of her request:

- A. Exhaustion of BOP administrative remedies
- B. UNICOR work records
- C. Education Data Transcript
- D. PATTERN Score
- E. Sentence Monitoring Computation Sheet
- F. Letter from Jocelyn's daughter, Ladonna
- G. Limited health records on Ladonna's condition
- H. Letter from Jocelyn's mother, Aldena Pretty Weasel

LADONNA NEEDS SPECIALIZED IN HOME CARE

My daughter, Ladonna, has been diagnosed with cancer. I believe it is Stage 4 Hodgkins lymphoma (sp?). She is also suffering from a debilitating disease called pulmonary fibrosis. The doctors indicated they are amazed she is even still alive. She is currently hospitalized, but needs to return to a home where she can be cared for. The combination of medial treatments has left her virtually unable to care for herself. See attached records. As the treatments have compromised her immune system, special housing and care is required.

My mother, age 70, has opened her home to Ladonna. However, my mother already cares for several small children, my 17 year old daughter Shanyn, and recently broke her hip. My mother also suffers from diabetes and has her own health struggles. She is unable to care for Ladonna as is required by her health conditions. She simply does not have the resources or ability to assist my daughter with the correct living conditions to protect Ladonna's immunity.

SHANYN NEEDS STABLE SUPPORT

My daugther, Shanyn, age 17, has recently suffered from a mental breakdown. She attempted suicide and was hospitalized in the mental health unit in Sioux Falls

(McKenna Hospital). My mother continues to try her best. Again, at age 70, my mother is simply unable with her health conditions (broken hip and diabetes) to adequately care for her other young grandchildren and meet Shany's special needs.

This leaves me. I am healthy, sober and focused on making a good life for both of my girls. I am relatively healthy and able bodied compared to my mother. These are the first two reasons for my request for compassionate release.

LACK OF PROGRAMMING AT FCI WASECA

Since COVID-19 first struck FCI Waseca in the early part of 2020, the compound has had modified operations. What this means is that no department has functioned properly since. Medical care is only a band-aid and crisis care. Psychology has lost its psychiatrist and only one psychologist is available when the programming requires seven (7) psychologists to manage all women incarcerated. The education department has virtually stopped operating until recently. The outside contractors that assist in programming were not permitted onto the compound. R-DAP (residential drug abuse program) has only been able to function on a limited basis.

One example: when my father died, I could not receive any counseling. I was delivered a workbook on grief and counseling. I have yet to fully explore and put into perspective the grief that I have over his death, and not being there for my family for this great hardship.

If you look at my progress report, you will note that I have been on the waiting list for several programs - for two plus years. What's amazing is that I have found God, can at least attend our impromptu religious services on the unit and the service when a volunteer is allowed into the compound to preach. I have remained sober when drugs surround me here in this facility. I have remained working when the facilities and UNICOR factory are functioning.

When we are locked down, we are either in the SHU (segregated housing unit) or locked onto our unit. I cannot tell you exactly how many months over the last two years we've been in lock down. I can tell you we've been locked down three different times adding up to months without programming and work.

Programming is available to me outside of FCI Waseca. As a member of the Cheyenne River Sioux Tribe, the funding for outside programming is readily available. I can move forward with grieving, religious classes, addiction treatment circles (Rapid City ROADS) and programming through Sioux San, employment, housing (I have saved over \$1,300 to establish a residence), attending mental health counseling, etc. These services are readily available to me and waiting in the Rapid City area.

COVID-19 IS STILL AFFECTING THE INMATES OF FCI WASECA ADVERSELY

This past week, seven (7) more inmates and ten (10) correctional officers tested positive for COVID. Within several days, if the past is any indicator, the infection will blaze through the entire compound. I suffer from latent tuberculosis and am overweight (maybe even obesity). Under the CDC guidelines, I am at high risk for adverse consequences as a result of contracting the disease. We will likely go through a fourth lock down as the disease spreads.

FIRST STEP ACT

My paperwork at FCI Waseca indicates that I am not eligible for FSA credits. This is not accurate. The BOP is struggling with applying the FSA to the proper people in a timely fashion. Based upon a reading of the law, I am eligible. I

am rated "medium" for recidivism and a "low" risk for violence or classification purposes, i.e. "camp status".

Please review the attached work, employment and progress records. I have been a very hard worker since arriving at FCI Waseca. I have worked at both UNICOR and within the kitchen. As a medium, I have earned ten (10) days credit for every month I've been employed. I should have earned credits for the classes completed. I have tried hard and am just about to complete my GED. My understanding with the ne PATTERN scoring system, I am now a "low" and should be earning fifteen (15) days credit for every month of work or evidence-based recidivism programming. If all of the credits were properly applied, my out date would be at least six (6) months earlier on February 1, 2027, rather than September 1, 2027 which is currently projected as my release date.

THE LAW

I rely upon 18 U.S.C. §3582(c)(1)(A)(i) as well as its interpretation through several cases. On the specific issue of the First Step Act, I cite U.S. v. Holloway, 956 F.3d 660 (2nd Cir. 2020) and the Federal Register Vol. 85, No. 228 dated November 25, 2020 and Vol. 85, No. 12 dated January 19, 2022 as well as 18 CFR §523

The reasons provided above are both "extraordinary and compelling". These phrases are not defined at 18 U.S.C. §3582. However, when reviewing the phrases in a regular dictionary, "extraordinary" means "notably unusual or exceptional" and "compelling" means "to drive or urge with force". Merriam-Webster Dictionary (2016). All of the above reasons provide an extraordinary and compelling reason for my sentence reduction.

Ladonna, my eldest child, is twenty (20) years of age. However, she is completely incapacitated through her health. The adult in this family typically who can be relied upon, my mother, broke her hip, has diabetes and is caring for her other minor grandchildren. Her resources and home cannot provide what is necessary for Ladonna to leave the hospital. Due to the nature of Ladonna's immune deficiencies, the home must be sterile. That is virtually impossible with young children in the home. Ladonna is physically constrained as well and needs physical assistance. My mother simply cannot pick up Ladonna. My father is deceased. That leaves me.

To add additional strife to the family, my 17 year old daughter, Shanyn, just stayed at the mental health hospital in Sioux Falls after attempting suicide. Again, my mother has been doing her best, but is simply unable to provide the unique mental health needs for Shanyn. Due to the same family dynamics laid out above, only I am available to provide the care necessary.

If permitted, I can demonstrate the lack of programming at FCI Waseca. When my father died, I received no services other than a workbook on grieving. Only two psychologists are employed at FCI Waseca currently. No psychiatrist is employed. Seven psychologists are supposed to be on staff here. This is just one example. I would have finished my GED as all that remains is testing. However, the computer isn't available and/or staff due to COVID-19. I have been on the wait list for both the non-residential and residential drug treatment programs for years. No progress has been made there. I have been able to remain drug free, but only through my commitment to remain so without any supportive services from FCI Waseca.

In addition, I am at high risk for health complications if I contract COVID-19. There is yet another infection here on the compound. It is likely only a matter of time before the compound is locked down a fourth time in less than two (2) years.

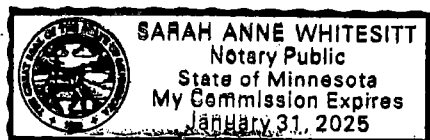
Finally, in reading the compassionate release statute, I qualify for application of the First Step Act. Currently, for whatever reason, the Federal Bureau of Prisons has deemed me ineligible. As a medium moving to a low score for risk of recidivism, I have earned ten (10) days towards every month I was completing programming or productive activities. From February of 2021 forward to the present I was employed at UNICOR or food services. This is roughly 14 months of productive activity. See both Federal Registers cited previously. Once down graded to a low, I earn 15 days per month. At a minimum, I've earned 140 days, i.e. 5 months of credit off my sentence towards early release. See also the Holloway case.

For all of these above reasons, please reduce my sentence so that I may care for my family and move forward to be the healthiest me.

Dated this 1 day of June, 2022.

Jocelyn Chasing Hawk
Jocelyn Chasing Hawk #
Federal Correctional Institute
PO Box 1731
Waseca, MN 56093

Subscribed and sworn to before me this 1st day of June, 2022.



[Signature]
Notary Public

Please also accept this as a request for the appointment of legal counsel, John Rusch, as he was previously my attorney. On this same date, I mailed a copy of the above motion to the United States Attorney's office in Pierre, SD, as well as to John Rusch at his address is Rapid City, SD.

Jocelyn Chasing Hawk
Jocelyn Chasing Hawk

Chasing Hawk
Name _____
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Pierre, SD 57501
United States

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